

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America

v.

Cliff Bernard Randall

Crim. No. 4:06-cr-00583-TLW-9

Order

This matter is before the Court on Defendant's motion to appoint counsel to his case in light of Amendment 794 to the sentencing guidelines, which amended the commentary to § 3B1.2 and went into effect on November 1, 2015, more than eight years after his sentencing on June 21, 2007. As background, Defendant pled guilty to charges of drug conspiracy and felon in possession of ammunition, and he was sentenced as a career offender to 264 months on the drug charge and 120 months on the felon in possession charge.¹

Defendant has not cited any decision applying Amendment 794 retroactively on collateral attack, nor is the Court aware of any such authority. Additionally, he was sentenced as a career offender, so even if Amendment 794 did apply retroactively on collateral attack and the Court concluded that it was factually applicable, it would not apply to reduce his total offense level, as the Chapter Four enhancement would override the Chapter Two calculation.

For these reasons, the Court concludes that Defendant is not entitled to the appointment of counsel in this case, as there is no general right to appointment of habeas counsel, and he has not set forth an adequate basis to support the appointment of counsel. *See* 18 U.S.C. § 3006A(a)(2)(B); *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987) ("We have never held that prisoners have a

¹ His sentence on the drug charge was subsequently reduced to 235 months pursuant to a crack amendment and then to 160 months pursuant to a Rule 35(b) motion. ECF Nos. 470, 597.

constitutional right to counsel when mounting collateral attacks upon their convictions . . . and we decline to so hold today.”). Accordingly, his motion to appoint counsel, ECF No. 745, is **DENIED.**

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

August 18, 2016
Columbia, South Carolina